

## **102 KAR 1:225. General compliance with federal tax laws.**

RELATES TO: KRS 161.716, 161.600, 161.470, 26 C.F.R., 26 C.F.R. 401(a)(7),(8), (25), 26 U.S.C. 414(d), (p), (u), 26 U.S.C. 401(a), 414(d), 414(p), 414(u), 503(b), 3401(h), 38 U.S.C. 4301-4335

STATUTORY AUTHORITY: KRS 161.310(1), 161.716

NECESSITY, FUNCTION AND CONFORMITY: KRS 161.310(1) requires the board of trustees to promulgate administrative regulations for the administration of the funds of the retirement system and for the transaction of business. KRS 161.716 requires the board of trustees to promulgate administrative regulations as are necessary to remove any conflicts with federal laws and to protect the interests of the members and survivors of the members of the retirement system. Kentucky Teachers' Retirement System shall administer the Retirement System as a qualified defined benefit plan pursuant to 26 U.S.C. 401(a) and 26 U.S.C. 414(d) of the Internal Revenue Code, 26 U.S.C., 26 C.F.R., and such other Internal Revenue Code Sections as applicable. This administrative regulation establishes Kentucky Teachers' Retirement System's compliance with 26 U.S.C. 401(a) and 503(b) in order for the Kentucky Teachers' Retirement System to maintain its tax qualified status as a public defined benefit plan. This administrative regulation also includes provisions intended to comply with the Heroes Earnings Assistance and Relief Tax Act of 2008, "HEART Act". This administrative regulation adds provisions that have been required as part of the determination letter process regarding vested benefits.

Section 1. Compliance with 26 U.S.C. 401(a)(7) and (8) for Vesting and Forfeitures. (1) A plan member shall be 100 percent vested in the member's accumulated contributions at all times.

(2)(a) In conformity with 26 U.S.C. 401(a)(8), a forfeiture of benefits by a member or former member of the plan shall not be used to pay benefit increases.

(b) Forfeitures shall be used to reduce employer contributions.

(3) Upon termination or partial termination of the Kentucky Teachers' Retirement System, or the complete discontinuance of contributions, a member shall have a nonforfeitable interest in his accrued benefit to the extent funded.

(4) In order to comply with Internal Revenue Service interpretations, subject to the provisions of KRS 161.470, a member shall have a nonforfeitable interest in his accrued benefit at attainment of age sixty (60) with the completion of five (5) years of service.

(5) Subject to the provisions of KRS 161.470, a member who completes at least five (5) years of service and terminates employment shall be vested in his accrued benefit and shall be entitled to that benefit upon the attainment of normal retirement age, which is age sixty (60), unless the member withdraws his accumulated contributions.

Section 2. Compliance with 26 U.S.C. 414(p) for Qualified Domestic Relations Orders. If benefits are payable pursuant to a qualified domestic relations order that meets the requirements of a domestic relations order as defined in 26 U.S.C. 414(p), then the applicable requirements of 26 U.S.C. 414(p) shall be followed by the retirement system.

Section 3. Compliance with 26 U.S.C. 414(u) for Reemployed Veterans. (1) Effective December 12, 1994, Contributions, benefits, and service credit with respect to qualified military service shall be governed by 26 U.S.C. 414(u) and the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301 – 4335.

(2) Effective with respect to deaths occurring on or after January 1, 2007, while a member is

performing qualifying military service, as defined in 38 U.S.C. Chapter 43 to the extent required by section 26 U.S.C. 401(a)(37) of the Internal Revenue Code, survivors of a member of the Kentucky Teachers' Retirement System shall be entitled to any additional benefits that the system would provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed.

(3) Beginning January 1, 2009, to the extent permitted by 26 U.S.C. 3401(h) and 414(u)(2) of the Internal Revenue Code, an individual receiving differential wage payments (while the individual is performing qualified military service, as defined in 38 U.S.C. Chapter 43) from an employer shall be treated as employed by that employer and the differential wage payment shall be treated as annual compensation. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

Section 4. Compliance with 26 U.S.C. 503(b) for Prohibited Transactions. The board shall not engage in a transaction prohibited by 26 U.S.C. 503(b).

Section 5. Compliance with 26 U.S.C. 401(a)(25) for Actuarial Assumptions. (1) Kentucky Teachers' Retirement System shall comply with 26 U.S.C. 401(a)(25) to determine the amount of any benefit that is determined on the basis of actuarial assumptions using assumptions adopted by the board by resolution for specific benefit calculation purposes.

(2) These benefits shall not be subject to employer discretion. (35 Ky.R. 1943; 2403; eff. 6-5-2009; 36 Ky.R. 1967; eff. 6-4-2010; 37 Ky.R. 1322; 1964; eff. 3-1-2011; 39 Ky.R. 1050; 1371; eff. 2-1-2013.)